

DRAFT

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1451/95

Transfer Application No.

Date of Decision 30.6.96

Irshad Sultan

Petitioner/s

Shri K.B. Talreja

Advocate for
the Petitioners

Versus

Union of India and others

Respondent/s

Shfi S.C.Dhawan

Advocate for
the Respondents

CORAM :

Hon'ble Shri. B.S. Hegde, Member (J)

Hon'ble Shri.

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?

B.S. Hegde
(B.S. Hegde)
Member (J)

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING No. 6
PRESCOT ROAD, BOMBAY : 1.

Original Application No. 1451/95

30th the day of April 1996

CORAM: Hon'ble Shri B.S. Hegde, Member (J)

Irshad Sultan

Applicant.

By Advocate Shri K.B. Talreja.

V/s.

The Union of India
through the General Manager,
Central Railway, Bombay VT.

The Divisional Railway Manager,
Central Railway, Bombay VT.

... Respondents.

By Advocate Shri S.C. Dhawan.

O R D E R

¶ Per Shri B.S. Hegde, Member (J) ¶

The applicant in this O.A. has prayed for change in date of birth, stating that his correct date of birth is 16.7.1941 instead of 16.7.1938, which has been inadvertently recorded due to clerical error.

It may be recalled that the applicant joined in the respondents department in 1960 in Class IV as Khalasi and has ~~asked for~~ change in date ~~of~~ birth in the year 1994. The applicant is due to retire in July 1996. The learned counsel for the applicant draws my attention to the Railway Board order on the basis of the minutes of the PNM Meeting held between NFIR and the Board on 22.7.96 as per whkch he states that: ~~etc~~

" the decision taken in 1972 affected only requests for alteration of date of birth from literate staff. As for illiterate staff, the rule had always been that where their date of birth had

been incorrectly entered they could represent and such representations could be conceded. It was agreed that a clarification would be issued that representations for alteration of date of birth from illiterate Class IV staff could be entertained without any time limit etc...

The respondents in their reply has stated that this application is misconceived and not maintainable in law. This application is barred by the law of limitation and is liable to be dismissed. In this connection he draws my attention to Rule 225(4) of the Indian Railway Establishment Code Volume I, which provides as under:

" The date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall ordinarily be permitted subsequently. It shall, however, be open to the President in the case of Group 'A' and 'B' Railway servant and General Manager in the case of Group 'C' and 'D' Railway servant to cause the date of birth to be altered.

- i) Where in his opinion it had been falsely stated by the Railway Servant to obtain an advantage otherwise inadmissible provided that such alteration shall not result in the Railway servant being retained in service longer than if the alteration had not been made, or
- ii) Where in the case of illerate staff, the General Manager is satisfied that a clerical error has occured, or
- iii) Where a satisfactory explanation (which should not be entertained after completion of the probation period, or three years whichever is earlier) of the circumstances in which the wrong date came to be entered

is furnished by the Railway servant concerned, together with the statement of any previous attempts made to have the record amended."

In the light of the above, the learned counsel for the respondents submits that this Tribunal has no jurisdiction to entertain and try this application.

It is true that the applicant has not made any representation for change in date of birth and as per Rule 225(4) the representation for change of date of birth should not be entertained after three years of service. Besides that since ~~the~~ cause of action is prior to 1982 and this Tribunal does not have any jurisdiction to entertain the grievance of the applicant. For want of jurisdiction the application deserves to be dismissed. It is submitted that the application does not disclose any cause of action as the applicant has not produced any irrefutable documentary proof of alleged date of birth in place of the one recorded in the Service Register at the time of his joining service which is ~~fully~~ verified as required by the rules and which bears the applicant's Thumb Impression and signature.

In the result, I am of the view that the application is hopelessly barred by time and on the point of jurisdiction, ^{also} the application is not maintainable. There is no mistake in the recorded date of birth. Accordingly the O.A. is dismissed. No order as to costs.


(B.S. Hegde)
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, 'GULESTAN BUILDING' NO.6
PREScot ROAD, FORT, MUMBAI 400001.

R.P. NO. 78/96 IN O.A. 1451/95

Dated this 31st day of July 1996.

CORAM : Hon'ble Shri B.S. Hegde, Member (J).

Irshad Sultan
Chargeman 'B'
Under ES (A/C) BB.VT
D.R.M.C. Rly.
Bombay VT

... ... **Applicant**

v/s

O R D E R

(By circulation)

The applicant has filed this R.P. 78/96 in O.A. 1451 of 1995 seeking review of the judgement dated 30-4-1996. I have gone through the said R.P. and I am satisfied that the same can be disposed of by circulation as per the Rule 49 of the CAT Practices Rules 1993.

2. The applicant has sought for review of the judgement on the ground that the Rule 225(4) of the Indian Railway Establishment Code Vol. 1 does not debar the illiterate staff for applying for change of date of birth and there is no limitation laid down for them etc. and that it is incorrect to say that the cause of action is prior to 1982 and there is no bar for the illiterate staff to correct the date of birth etc.

From pre-page:

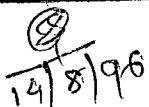
3. The applicant has filed the O.A. 1451/95 contending that his correct date of birth is 16-7-1941 instead of 16-7-1938 and in support of his contention he has asked some of his relatives i.e. brothers to file affidavit which has been filed as late as January 1996. After hearing the learned counsels of both the parties, the O.A. was dismissed on merit as well as limitation and for want of jurisdiction.

4. In the R.P. the applicant has not made out any new facts which require to be considered. The R.P. cannot be utilised for re-arguing the case on the same ground again. None of the grounds mentioned in the Order 47, Rule 1 of the CPC is made out in this Review Petition. Therefore, I find that neither any error apparent on the face of the record has been pointed out nor any new fact has been brought to my notice calling review of the original judgement. Accordingly, the R.P. is dismissed.


(B.S. Hegde)
Member (J)

ssp.

At 3/7/96
order/Judgement despatched
to Applicant/Respondent (s)
on 12/8/96


14/8/96